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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,214	01/27/2004	Mark A. Etter	JK014771	2579
28368 7590 11/12/2008 THE BLACK & DECKER CORPORATION 701 EAST JOPPA ROAD, TW199 TOWSON, MD 21286				
EXAMINER				
RAO, SHEELA S				
ART UNIT		PAPER NUMBER		
2128				
MAIL DATE		DELIVERY MODE		
11/12/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/767,214

**Applicant(s)**

ETTER ET AL.

**Examiner**

SHEELA RAO

**Art Unit**

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) 1-23 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 24-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 30 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-85/86)  
Paper No(s)/Mail Date see attached  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

1. This Office action is in response to papers filed on 11 June 2008.
2. Applicant's election without traverse of Group II – claims 24-30 in the reply filed on June 11, 2008 is acknowledged.
3. Claims 24-30 are pending and presented for examination.
4. Applicant's submission of references on form PTO-1449, filed on April 14, 2004, August 1, 2005 and October 26, 2007, have been considered. A signed copy of each form is attached. Applicant's have included Office actions of other related and unrelated Patent applications as prior art in the IDS filed on October 26, 2007. These documents are acknowledged and have been reviewed but have not been indicated as considered on form PTO-1449; so that the Office actions will not be cited as prior art when published.

***Double Patenting***

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct

from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

6. Claim 24 is provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7 and 10 of copending Application No. 10/463,206 in view of US Patent No. US 6,593,587 B2 to Pease.

Claim 24 cites a table saw assembly, comprising a frame coupled with a table, the table having an aperture, a fence adjustably coupled with the table, the fence for establishing a distance from the aperture. a power tool control system coupled with the fence, the power tool control system for establishing various measurements and

settings of the table saw assembly, the power tool controls system comprising a base for coupling with the fence, a non-contact measurement and alignment device coupled with the base, the non-contact measurement and alignment device operative with the table saw assembly for determining table saw assembly settings, a graphical user interface communicatively coupled with the non-contact measurement and alignment device, the graphical user interface for user operation of the table saw assembly for indicating at least two of the table saw assembly settings, and a display menu which logically related folders providing table saw assembly setting options and readouts of current settings. The limitations of claim 7 of copending Application 10/463,206, includes the elements of instant claim 24 with regard to the frame, a fence, a non-contact measurement and alignment device, and a graphical user interface. Claim 10 includes the limitations of claim 7 and further defines the multiple pages of the graphical user interface as being logically related to the related folders. In the instant application, claim 24 further comprises a display menu which is not found in claims 7 and 10 of the copending Application. However, in the reference of prior art by Pease, US Patent No. US 6,593,587 B2, a display device in the same field of endeavor is taught as including an image processor allowing its display to be graphic and converts the various user inputs via a touch-screen into multiple commands for the device. These various user inputs and touch-screen display represent the folders presented by the device to the user, as stated in column 3, lines 25-43. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the display menu as taught by Pease with the invention of the copending application so as to enable the

data used in the operation of graphical user interface to be displayed and readable by users as is well known to be the use of such display menus and devices.

This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 24-30 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Application Publication No. US 2001/0028025 A1 to Pease.

The published invention by Pease teaches of a tool integrated measurement device. The disclosure of the invention of prior art teaches the limitations of the instant invention as stated herein below.

Claim 24 cites a table saw assembly, comprising a frame coupled with a table, the table having an aperture – see Fig. 6 wherein the table saw assembly is item 600, the frame is item 604 with the table being item 602, the aperture through which the saw assembly extends is shown near item 606; a fence adjustably coupled with the table, the fence for establishing a distance from the aperture - the fence is shown in Fig. 6 as item 609 and is described in paragraphs [0032-0033]; a power tool control system coupled with the fence, the power tool control system for establishing various

measurements and settings of the table saw assembly – shown as item 10 in Fig. 6, the power tool control system further comprising: a base for coupling with the fence - the placement of the control system is explained in paragraph [0033]; a non-contact measurement and alignment device coupled with the base, the non-contact measurement and alignment device operative with the table saw assembly for determining table saw assembly settings – is again item 10 as shown in Fig. 6; a graphical user interface communicatively coupled with the non-contact measurement and alignment device, the graphical user interface for user operation of the table saw assembly for indicating at least two of the table saw assembly settings – shown as item 16; and a display menu which logically relates folders providing table saw assembly setting options and readouts of current settings - see item 16 in Fig. 6. Pease discloses the device to have an image processor allowing its display to be graphic and converts the various user inputs via a touch-screen into multiple commands for the device. These various user inputs and touch-screen display represent the folders presented by the device to the user, as stated in paragraphs [0020-0021].

Claims 25 and 26 further define the non-contact measurement and alignment device as comprising a laser source wherein the laser source is a laser light indicia. The disclosure of Pease explains the presence and use of laser light in paragraph [0015].

Claim 27 includes a kerf correction within the non-contact measurement and alignment device. By definition, according to the Online Merriam-Webster dictionary, a kerf is stated as being “the width of a cut made by a saw or cutting torch.” With this

interpretation of the claimed limitation, the disclosure of Pease teaches the non-contact measurement and alignment device taking the measurement of a width of an object as described in paragraph [0023].

Claim 28 defines the non-contact measurement and alignment device as a modular device. The reference of prior art shows in Fig.1 the modular aspect of the invention, paragraphs [0014-0015] describe the portable measurement device.

Claim 29 requires a graphical user interface to be communicatively coupled with the non-contact measurement and alignment device in the table saw assembly. Pease teaches the use of a graphical user interface, by showing item 16 in Fig. 1 and describing this element in paragraph [0021].

Claim 30 has the table saw assembly further comprising a computing system communicatively coupled with the non-contact measurement and alignment device and the graphical user interface. Paragraph [0019] explains the duties of the controller or computing system of the published invention.

### ***Conclusion***

9. For the reasons stated above, the limitations of the instant invention are taught and/or fairly suggested by the prior arts of record; thereby, rendering the instant claims unpatentable.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheela Rao whose telephone number is (571) 272-



3751. The examiner can normally be reached Monday - Friday from 8:30 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah, can be reached on (571) 272-2279. The fax number for the organization where this application or any proceeding papers is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. It should be noted that status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see [http:// pair-direct.uspto.gov](http://pair-direct.uspto.gov). Should any questions arise regarding access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Kamini S Shah/

Supervisory Patent Examiner, Art Unit 2128

/SHEELA RAO/  
Examiner, Art Unit 2128  
October 30, 2008